No. 88-1613

Supreme Court, U.S.
FILED
APR 26 1989
JOSEPH F. SPANIOL, JR.
CLERK

In The
Supreme Court of the United States
October Term, 1989

BRIAN W. DOWLING,
Petitioner.

v.

ALABAMA STATE BAR,
Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF ALABAMA

BRIEF OF RESPONDENT ALABAMA STATE BAR IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

JOHN A. YUNG IV
FOR THE OFFICE OF GENERAL COUNSEL
ALABAMA STATE BAR
MONTGOMERY, AL 36104
(205) 269 -1514

ATTORNEY FOR RESPONDENT,
ALABAMA STATE BAR

QUESTIONS PRESENTED

I

WHETHER TEMPORARY DR 2-101(A) OF THE ALABAMA CODE OF PROFESSIONAL RESPONSIBILITY IS UNCONSTITUTIONALLY VAGUE OR OVERBROAD AS APPLIED TO PETITIONER DOWLING.

II

WHETHER DR 1-102(A)(4) OF THE ALABAMA CODE OF PROFESSIONAL RESPONSIBILITY IS UNCONSTITUTIONALLY VAGUE OR OVERBROAD AS APPLIED TO PETITIONER DOWLING.

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Temporary Disciplinary Rule 2-101(A), Code of Professional Responsibility of the Alabama State Bar 1

STATEMENT OF THE CASE

Two Disciplinary Rules contained in the Alabama Code of Professional Responsibility are involved in this case. They are attacked by petitioner Dowling as they were applied to him.

The first of the Disciplinary Rules involved is Temporary DR 2-101(A), which states:

> "A lawyer shall not make or cause to be made a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it:
>
> (A) Contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading."

The second of the Disciplinary Rules involved in this case is DR 1-102(A)(4), which states:

"(A) A lawyer shall not:

* * *

(4) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation, nor be guilty of wilful misconduct."

Disciplinary charges were filed against petitioner Dowling before the Disciplinary Board of the Alabama State Bar on July 31, 1987. (Appendix at A1 - A4.)

The formal hearing before the Disciplinary Board was held on October 16, 1987, at the conclusion of which the Board found petitioner Dowling guilty of both charges specified in the disciplinary complaint, and ordered that he receive a Public Censure. (Appendix at A5.)

Thereafter, petitioner Dowling filed a "Motion for New Trial or to Alter, Amend, or Vacate the Judgment" along with a "Motion for JNOV," both of which were subsequently denied by the Disciplinary Board.

Dowling perfected an appeal to the Supreme Court of Alabama which affirmed the Disciplinary Board's findings and order on September 23, 1988. (Petitioner's App. at 1a - 31a.)

The Supreme Court of Alabama overruled petitioner Dowling's application for rehearing on January 13, 1989. (Petitioner's App. at 36a.)

The petitioner's Statement of the Case is erroneous in stating, at page 6 thereof, that petitioner Dowling was tried before and found guilty by the "Board of Bar Commissioners of the Alabama State Bar." The Board of Bar Commissioners is the governing body of the Alabama State Bar, and its duties do not include the trying of disciplinary charges against lawyers. Code of Alabama, (1975) §§34-3-40, 34-3-43.

Petitioner Dowling was actually tried before and found guilty by the Disciplinary Board of the Alabama State Bar, as provided

under Rule 4, Rules of Disciplinary Enforcement. Ala. Rep. 353-355 So.2d XXXIX.

ARGUMENT

Petitioner Dowling claims that the two Disciplinary Rules that he was found guilty of having violated are both unconstitutionally vague as applied to him.

A criminal statute is considered unconstitutionally vague if persons of ordinary intelligence cannot determine exactly what acts are made illegal. Buckley v. Valeo, 424 U.S. 1, 96 S.Ct. 612, 46 L.Ed.2d 659 (1976) and Erznozik v. City of Jacksonville, 422 U.S. 205, 95 S.Ct. 2268, 45 L.Ed.2d 125 (1975). It is difficult to believe that any person of ordinary intelligence, let alone a trained, licensed, practicing lawyer, could not tell that both Temporary DR 2-101(A) and DR 1-102(A)(4) prohibited a lawyer from falsely representing to the public that he was a judge.

Temporary DR 2-101(A) is particularly clear and specific in prohibiting a lawyer from making "a false or misleading communication about the lawyer," and in defining a false or misleading communication as any that "contains a material misrepresentation of fact...or omits a fact necessary to make the statement considered as a whole not materially misleading." It is hard to imagine that more precise language could be constructed.

Only lawyers are qualified to hold the judgeship that Dowling sought, [1/] and he was attempting to sell himself to the voters by

---

[1/] Constitution of Alabama of 1901, Amed. No. 328, Sec. 6.07, provides:

> "Judges of the supreme court, courts of appeals, circuit court and district court shall be licensed to practice law in this state and have such other qualifications as the legislature may prescribe. Judges of the probate court shall have such qualifications as may be provided by law."

calculatedly misrepresenting that he already was or had been a judge.

Temporary Disciplinary Rule 2-101(A) was adopted verbatim from Rule 7.1(a) of the American Bar Association Model Rules of Professional Conduct. The American Bar Association adopted this language after years of study in connection with the preparation of its Model Rules of Professional Conduct.

Disciplinary Rule 1-102(A)(4) was based upon, and almost the same as, the corresponding DR 1-102(A)(4) of the older American Bar Association Model Code of Professional Responsibility. In Phelps v. Kansas Supreme Court, et al., 662 F.2d 649, 651 (10th Cir. 1981), the Court upheld the constitutionality of DR 1-102(A)(4) of the Kansas Code of Professional Responsibility, which was also based upon the ABA Model Code of Professional Responsibility, and the Court stated that the constitutional attack on the Rule "borders on the frivolous."

In Disciplinary Proceedings of Phelps, 637 F.2d 171, 175 (10th Cir. 1981), with reference to the same provisions of the Kansas Code of Professional Responsibility, including DR 1-102(A)(4), the Court stated that it was "not necessary that the Rules list each and every incidence in which a lawyer may possibly violate these Rules, and it is unnecessary that there must have been previous judicial construction of the Rules in order for governing legal precepts to exist."

Rule 2 of the Alabama Rules of Disciplinary Enforcement makes it perfectly clear that the Code of Professional Responsibility provides sanctions for lawyer misconduct that is outside of as well as that which is within activities normally associated with representing a client. Rule 2(a) of the Rules of Disciplinary Enforcement states:

> "Acts or omissions by an attorney, individually or in concert with any other person or persons, which violate the Attorney's Oath of Office or the Code of Professional Re-

> sponsibility of the Alabama State Bar as from time to time shall be in effect in the State of Alabama, shall constitute misconduct and shall be grounds for discipline, whether or not the act or omission occurred in the course of an attorney-client relationship." (Emphasis added.). Ala. Rep. 353-355 So.2d XXXVII.

Even before the Alabama Rules of Disciplinary Enforcement became effective in 1978, [2/] the Supreme Court of Alabama had held that lawyers could be disciplined for misconduct that was outside of and not connected with any professional employment as an attorney. Ex Parte Montgomery, 244 Ala. 91, 97, 12 So.2d 314, 318 (1943) and Ex Parte Grace, 244 Ala. 267, 13 So.2d 178 (1943). Petitioner Dowling clearly was on notice of the fact that the Bar had jurisdiction over his activities as a lawyer running for a judgeship.

[2/] Rule 24, Rules of Disciplinary Enforcement, Ala. Rep. 353-355 So.2d LVIII.

Petitioner has admitted that he approved the design of the campaign card involved in this case, that he was not and never had been a judge, that he realized the cards could mislead people into thinking otherwise, and that he was responsible for the distribution of the cards. He was, therefore, by his own admission, intimately and directly involved in preparing, printing, and publishing a premeditated, objective falsehood about his status and experience.

In Vanasco v. Schwartz, 401 F.Supp. 87 (S.D.N.Y. 1975), affirmed 423 U.S. 1041, 96 S.Ct. 763, 46 L.Ed.2d 630 (1975), the Court held certain sections of the New York Election Law and the New York Fair Campaign Code, adopted under the Election Law, to be unconstitutional. Among the distinctions between that case and the present case are the fact that Vanasco concerned provisions that were specifically designed to regulate political activities, and that were very loosely and confusingly drafted, and that

did not require clear and convincing proof or provide for judicial review. Though none of those aspects of Vanasco are found in this case, the Vanasco Court noted that "calculated falsehoods are of such slight social value that no matter what the context in which they are made, they are not constitutionally protected." 401 F.Supp. at 93. The Vanasco Court further noted that "the deliberate calculated falsehood does not enjoy constitutional protection even when made during the course of a political campaign...." Id. at 95.

In Garrison v. Louisiana, 379 U.S. 64, 85 S.Ct. 209, 13 L.Ed.2d 125 (1964), this Court stated:

> "That speech is used as a tool for political ends does not automatically bring it under the protective mantle of the Constitution. For the use of the known lie as a tool is at once at odds with the premises of democratic government and with the orderly manner in which economic, social, or political change is to be effected.

> Calculated falsehood falls into that class of utterances which 'are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality....' Chaplinsky v. New Hampshire, 315 U.S. 568, 572 [62 S.Ct. 766, 86 L.Ed. 1031] Hence the knowingly false statement and the false statement made with the reckless disregard of the truth, do not enjoy constitutional protection." 379 U.S. at 75, 85 S.Ct. at 216.

Petitioner cites Brown v. Hartlage, 456 U.S. 45, 71 L.Ed.2d 732, 102 S.Ct. 1523 (1982), in which this Court held that the First Amendment prohibited Kentucky from declaring an election void based upon the victorious candidate's having announced to the voters during his campaign that he intended to serve at a salary less than that fixed by law, in violation of the Kentucky Corrupt Practices Act. This Court found that the action by Kentucky did violate the First Amendment, but the opinion is not very

helpful in the present case, because of the completely different circumstances. However, this Court stated the First Amendment maxim that is most relevant in the present case:

> "Of course, demonstrable falsehoods are not protected by the First Amendment in the same manner as truthful statements." 456 U.S. at 60.

Petitioner Dowling also cites Gertz v. Welch, 418 U.S. 323, 41 L.Ed.2d 789, 94 S.Ct. 2997 (1974). While this case concerns First Amendment rights, it is a defamation case, and the facts giving rise to it have nothing in common with the present case. Nonetheless, this Court's opinion in Gertz does contain a clear and useful statement of First Amendment philosophy. The majority opinion states:

> "Under the First Amendment there is no such thing as a false idea. However pernicious an opinion may seem, we depend for its correction not on the conscience of judges and juries but on the

> competition of other ideas. But there is no constitutional value in false statements of fact. Neither the intentional lie nor the careless error materially advances society's interest in 'uninhibited, robust, and wide-open' debate on public issues. New York Times Co. v. Sullivan, 376 U.S. at 270, 11 L.Ed.2d 686, 95 ALR 2d. 1412. They belong to that category of utterances which 'are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality.' Chaplinsky v. New Hampshire, 315 U.S. 568, 572, 86 L.Ed. 1031, 62 S.Ct. 766 (1942)." 418 U.S. at 339-40.

Another case referred to by petitioner is Pestrak v. Ohio Elections Commission, 670 F.Supp. 1368 (S.D. Ohio 1987). In that case the Court found unconstitutional certain Ohio statutory provisions prohibiting the dissemination of false statements concerning the candidate and designed to affect an election. The Court found that the Ohio statutory provisions were unconstitutional for two

reasons. First, they did "not sufficiently establish the appropriate standard of clear and convincing proof as required by the Constitution." 670 F.Supp. at 1376. Second, the Ohio statutory provisions provided for "an administrative adjudication which constitutes a prior restraint on constitutionally protected speech," with the provision for a judicial review not sufficient to "afford adequate and timely protection." Id. at 1378 & 1377. As noted by the Supreme Court of Alabama in its opinion in this case, lawyer disciplinary proceedings in Alabama are governed by the clear and convincing proof standard, and are subject to review by the Supreme Court of Alabama.

Another case cited by petitioner is National Association for the Advancement of Colored People v. Button, 371 U.S. 415, 9 L.Ed.2d 405, 83 S.Ct. 328 (1963). In that case a Virginia statute had been construed to include the NAACP's activities, in initiating certain desegregation litigation on

behalf of various black persons, within an expanded definition of improper and proscribed solicitation of legal business. 371 U.S. at 425. This Court held, in essence, that a state statute that had so broad and uncertain a meaning as to allow its application to deprive citizens of First Amendment rights is unconstitutional. This Court stated that it was "enough that a vague and broad statute lends itself to selected enforcement against unpopular causes." 371 U.S. at 435. Neither Temporary DR 2-101(A) nor DR 1-102(A)(4), in the present case, is unconstitutional under the NAACP standard.

The final case cited by petitioner in support of his constitutional attack on the Disciplinary Rules involved in this case is Broadrick v. Oklahoma, 413 U.S. 601, 37 L. Ed.2d 830, 93 S.Ct. 2908 (1973), in which certain provisions of the Oklahoma Merit System and Personnel Administration Act were challenged as being unconstitutional.

The provisions in question proscribed a very broad range of political activities and conduct by state employees in the classified service. This Court upheld the challenged portion of the law, indicating that it was "not so vague" that "men of common intelligence must necessarily guess at its meaning." 413 U.S. at 607.

This Court in Broadrick cited its opinion of the same date in CSC v. Letter Carriers, 413 U.S. 548, 37 L.Ed.2d 796, 93 S.Ct. 2880 (1973), wherein similar provisions in the Federal Hatch Act had been upheld. In Letter Carriers, this Court noted that there were "limitations in the English language with respect to being both specific and manageably brief," and it found that, although the Hatch Act's political activity prohibitions "may not satisfy those intent on finding fault at any cost, they are set out in terms that the ordinary person exercising ordinary common sense can sufficiently understand and comply with...." 37 L.Ed.

2d at 816.

In Parker v. Levy, 417 U.S. 733, 94 S.Ct. 2547, 41 L.Ed.2d 439 (1974), a First Amendment case, an Army officer challenged the constitutionality of certain provisions of the Uniform Code of Military Justice (UCMJ) under which he had been court-martialed. The provisions in question were challenged on the grounds of vagueness and overbreadth. They, respectively, prohibited "conduct unbecoming an officer or gentleman," and "disorders and neglects to the prejudice of good order and discipline in the armed forces." Though those provisions of the UCMJ were immeasurably more vague and more broad than the provisions of the Alabama Code of Professional Responsibility involved here, this court upheld the constitutional validity of the challenged portions of the UCMJ, and stated:

> "For the reasons which differentiate military society from civilian society, we think Congress is permitted to legislate both with great-

> er breadth and with greater flexibility when prescribing the rules by which the former shall be governed than it is when prescribing rules for the latter. But each of these differentiations relates to how strict a test of vagueness shall be applied in judging a particular criminal statute. None of them suggests that one who has received fair warning of the criminality of his own conduct from the statute in question is nonetheless entitled to attack it because the language would not give similar fair warning with respect to other conduct which might be within its broad and literal ambit. One to whose conduct a statute clearly applies may not successfully challenge it for vagueness." 417 U.S. at 756.

There are as many profound differences between lawyers and laymen as there are between military society and civilian society. Parker, supra, was cited by the District of Columbia Court of Appeals, in Matter of Keiler, 380 A.2d 119 (1977) for the proposition that:

> "The language of a rule setting guidelines for members of the bar need not meet the precise standards of clarity that might be required of rules of conduct for laymen." 380 A.2d at 126.

The present case is not a libel or a slander case. It is not a case concerning a statute or rule or regulation designed to govern political candidates or political campaigns. It is not a case involving any attempt to regulate the free flow of ideas or of information. It is not a case that is at all concerned with issues, beliefs, ideas, accusations, proposals, exhortations, criticisms, fears, threats, demands, or political messages of any sort. Rather, it is a case involving the prohibiting of members of a unique and learned and powerful profession from attempting to mislead other persons or the public in general by calculated, premeditated misrepresentation of objective fact.

In the present case petitioner Dowling

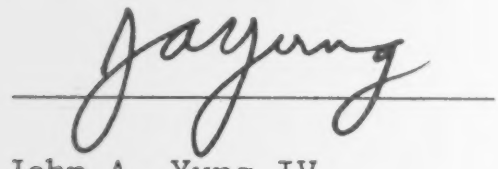
attempted to sell his services to the voters by calculatedly and premeditatedly and falsely holding himself out as a judge. This representation was of an objective fact. Either Dowling was or was not a judge. Either he had been or he had never been a judge. The undisputed facts were that he was not and had never been a judge, though he directly involved himself in the design, production, and distribution of the campaign card that clearly identified him as "Judge Brian Dowling."

If the state has a compelling interest in prohibiting lawyers from making material misrepresentations about themselves or their services when they are trying to get a client or case, then the state has an even more compelling interest in preventing such misrepresentations when the same lawyer is trying to get a judgeship - where he can affect every client and every case that comes before his court.

CONCLUSION

The Alabama State Bar submits that the Petition for Writ of Certiorari should be denied.

Respectfully submitted,

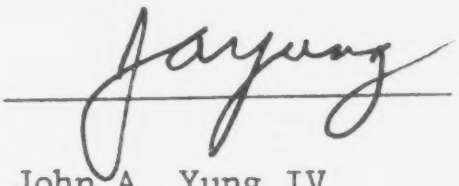


John A. Yung IV
Alabama State Bar
1019 South Perry Street
Montgomery, AL 36104
Telephone: (205) 269-1514

CERTIFICATE OF SERVICE

I, John A. Yung IV, a member of the Bar of the Supreme Court of the United States, do hereby certify that on this the 26th day of April, 1989, I did serve the requisite number of copies of the foregoing brief and argument in opposition to the Petition for the Writ of Certiorari on the attorney for Brian W. Dowling, by

mailing the same to said attorney, first-class postage prepaid, at the address as follows: Mr. Harry Lyon, Post Office Box 21, Pelham, Alabama, 35124.



John A. Yung IV
Alabama State Bar

ADDRESS OF COUNSEL:

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APPENDIX

A-1

19454 Filed 8-3-87

IN THE MATTER OF	BEFORE THE DISCIPLINARY BOARD
Brian W. Dowling,	OF THE
AN ATTORNEY AT LAW	ALABAMA STATE BAR
OF THE STATE OF ALABAMA)	CASE NO. 86-352

SUMMONS

To any person authorized by the General Counsel of the Alabama State Bar, pursuant to Rule 12(c), Rules of Disciplinary Enforcement, to effect service:

You are hereby commanded to serve forthwith in person this summons and a copy of petition for disciplinary action, heretofore filed with the Secretary of the Alabama State Bar (copy attached), upon Mr. Brian W. Dowling, 134 South Oates St., Dothan, AL, 36301, (telephone 793-2798), attorney-at-law, also known as same, wherever he may be found.

NOTICE TO RESPONDENT

The formal charges as set forth in a petition for disciplinary action which is attached to this summons is important and you must take immediate action to protect your rights. You are required to serve a copy of a written answer to the petition upon the General Counsel of the Alabama State Bar at State Bar Headquarters, Montgomery, Alabama, and file the original with the Disciplinary Board at State Bar Headquarters. THIS ANSWER MUST BE MAILED OR DELIVERED WITHIN TWENTY-EIGHT (28) DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU, EXCLUDING THE DAY OF SERVICE OF SUMMONS. IN THE EVENT YOU FAIL TO ANSWER, THE CHARGES SET FORTH IN THE PETITION SHALL BE DEEMED ADMITTED. The site of the hearing on these charges shall be determined by the Chairman of the Disciplinary Board unless you request in your first defensive pleading that the hearing be held in your home county.

Reginald T. Hamner

SECRETARY
ALABAMA STATE BAR

WITNESS my hand, this the 31st day of July, 19 87.

This summons is issued in connection with a confidential proceedings under the Rules of Disciplinary Enforcement of the Supreme Court of Alabama and it is regarded as contempt of the Disciplinary Board enforceable by a court or grounds for discipline of an attorney for a person subpoenaed to breach in any way the confidentiality of the proceedings.

FORM B-1 (ref: Rules of Disciplinary Board, Sec. 4-II-a)

AUG 1987
Office of General Counsel

FILED IN OFFICE

JUL 31 1987

BEFORE THE DISCIPLINARY BOARD OF THE

ALABAMA STATE BAR

IN THE MATTER OF)

BRIAN W. DOWLING,) CASE NO. ASB 86-352

AN ATTORNEY AT LAW)

Brian W. Dowling having demanded the filing of formal charges in this matter, under Rule 8(b), Rules of Disciplinary Enforcement of the Alabama State Bar, accordingly, comes now the Grievance Committee of the Houston County Bar Association, by and through its Chairman, and avers that it has probable cause for believing, and does believe and allege that Brian W. Dowling, (hereinafter, "respondent attorney"), has been guilty of violating or failing to comply with certain provisions of the Code of Professional Responsibility of the Alabama State Bar, in that:

COMPLAINT ONE [86-352]

Charge I

[Violation of Temporary DR 2-101(A)]

1. At all times pertinent, the respondent attorney was licensed to practice law in the State of Alabama.

2. The respondent attorney was a candidate for Houston County, Alabama District Judge in the 1986 election.

3. As part of his campaign, the respondent attorney had printed, and distributed, a certain campaign card, a copy of which, front and back, is attached hereto and incorporated herein by this reference as Exhibit "A".

4. Despite the wording on this campaign card, the respondent attorney was not, and never had been, a District Judge in Houston County, or any other county in the State of Alabama, and had not been a judge on any other court of the judicial system of the State of Alabama, or of any other state.

5. In doing the above-described acts, the respondent attorney made or caused to be made a false or misleading communication about himself, containing a material misrepresentation of fact, or omitting a fact necessary to make the statement considered as a whole not materially

misleading, and was, thereby, guilty of violating or failing to comply with Temporary DR 2-101(A), said Rule providing:

> "A lawyer shall not make or cause to be made a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it:
>
> (A) Contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading."

Charge II

[Violation of DR 1-102(A)(4)]

1. For Charge II, the Grievance Committee adopts all of the allegations of paragraphs 1 through 4 of Charge I, and further alleges:

2. In doing the above-described acts, the respondent attorney engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation, and was, thereby, guilty of violating or failing to comply with DR 1-102(A)(4), said Rule providing:

> "(A) A lawyer shall not:
>
> * * *
>
> (4) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation, nor be guilty of willful misconduct."

Edward Jackson

Edward Jackson, Chairman
Grievance Committee of the
Houston County Bar Association

CERTIFICATE OF FILING

I hereby certify that the foregoing disciplinary charges were filed in the office of the Secretary of the Alabama State Bar this the 31st day of July, 1987.

Reginald T. Hamner

Reginald T. Hamner
Secretary
Alabama State Bar

★★★★★★★★★★★★★★★★★★★★

JUDGE BRIAN

DOWLING

FOR
DISTRICT JUDGE
HOUSTON COUNTY

Brian Dowling - Dothan, Alabama - 793-2798

Justice For All

- Dothan native, 38 years of age
- 1970 U.S. Army Newsman
- 1975 Attorney General's Office
- 1976 Entered Law Practice in Dothan
- Houston County Bar Association
- 1983 City Attorney & Prosecutor for Dothan
- Graduated top 10% of Law School
- Experienced in every type of Alabama Court (Primarily District Court)
- Will Protect Victims of Crime
- Family: Married to the former Beth Walker (a teacher of hearing impaired children with Dothan City Schools)

JUNE 3: You MUST vote Democrat or Republican
NOVEMBER 4: You may vote independently for any candidate

EXHIBIT
"A"

BEFORE THE DISCIPLINARY BOARD OF THE

ALABAMA STATE BAR

IN THE MATTER OF	)	
BRIAN W. DOWLING,	)	CASE NO. ASB 86-352
AN ATTORNEY AT LAW	)	

FINDINGS
AND
ORDER FOR PUBLIC CENSURE

This matter having been heard this date, as scheduled, and the Disciplinary Board having considered all matters presented by the Bar and by the respondent attorney, the Disciplinary Board finds the facts to be as alleged in the disciplinary complaint, and finds the respondent attorney, Brian W. Dowling, guilty of Charge I and Charge II, and it is

ORDERED that the respondent attorney's discipline in this matter be and it is hereby set at a Public Censure.

THIS the 16th day of October, 1987.

Walter P. Crownover, Chairman
Disciplinary Board, Panel II
Alabama State Bar
P. O. Box 2507
Tuscaloosa, AL 35401

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Order was served upon the respondent attorney, Mr. Brian W. Dowling, 134 South Oates Street, Dothan, AL, 36301, by United States mail, postage prepaid, this the 16th day of October, 1987.

Walter P. Crownover, Chairman
Disciplinary Board, Panel II
Alabama State Bar